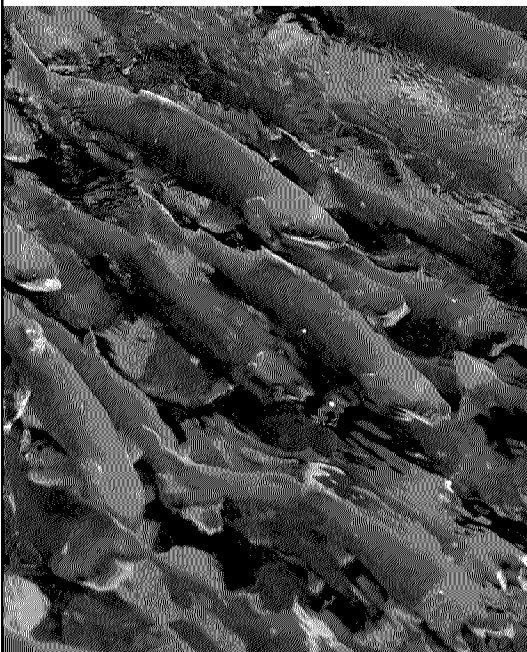




# Oregon CZARA

## **Tillamook Bay Watershed Council February 25, 2014**



EPA Region 10, OWW and  
Oregon DEQ



# WHAT WE WILL DISCUSS

- Brief background on CZARA & Oregon's Coastal Nonpoint Program
- Oregon Settlement Agreement and Program Decisions
- Remaining Issues to Address
- The Path Forward

# Coastal Zone Act Reauthorization Amendments (CZARA)



- Enacted Nov. 5, 1990; Jointly administered by EPA & NOAA; EPA published (g) guidance in Jan. 1993
- CZARA = CZMA Section 6217, which requires states participating in NOAA's CZMP to develop coastal nonpoint pollution control programs (CNPCPs)
- 34 states and territories currently participate in the National CZM Program

# CZARA's Purpose & Mandate



- States must “prepare and submit” to NOAA & EPA CNPCPs that “shall be closely coordinated with State & local WQ plans & programs developed pursuant to sections 208, 303, 319, & 320” of CWA.
- Specifically, “State programs shall serve as an update and expansion of the State NPS management program developed under section 319”
- 56 Management Measures across these categories: **Agriculture, Urban, Forestry, Marinas, Hydromodification, Wetlands – In Oregon @ 40 MMs apply**
- *Each state shall also contain... additional management measures... necessary to achieve and maintain applicable water quality standards... and protect designated uses.*



# CZARA Timeline in Oregon

- 1995 – Oregon submitted its Coastal Non-point Source Control Program to NOAA/EPA
- 1998 – NOAA/EPA completes review and identifies issues to be addressed
- 2004 – NOAA/EPA provides further review
- 2007-Oregon submits revisions
- 2008- NOAA/EPA provide further review
- Note: Consistency in Findings
- 2009 – NWEA files suit

# Oregon Lawsuit Overview



- NWEA sued NOAA and EPA for failing to fully approve (without conditions) or disapprove OR's CNPCP. The parties settled Summer 2010. NWEA's primary concern was impacts from timber harvest and forest roads.
- ~~To provide a~~ Basis for settlement, ODEQ committed to:
  - Implement a TMDL approach with specific source delineations and enforceable load allocations for all significant NPS including forestry – Mid-Coast TMDL
  - Combine this enforceable approach with identified BMPs that, if implemented, provide a safe harbor from enforcement
  - Issue implementation orders to significant sources
- Agreement established timeline with milestones to approve or disapprove OR's CNPCP by 2014 .

# Oregon SA: Critical Deadlines



- By Dec. 31, 2012, NOAA-EPA provide ODEQ an initial assessment of the viability of its TMDL strategy for achieving WQS and addressing OR's remaining forestry conditions.
- By Nov. 15, 2013\*, NOAA-EPA must publish a decision for public notice & comment on our intent to approve or disapprove OR's CNPCP. Intent to disapprove requires 90-day public comment period.
  - \*Federal shutdown resulted in delays & grounds for new timeline. Proposed decision published on Dec. 20, 2013.
  - Public Comment Period closes March 20, 2014
  - EPA and NOAA to issue a final decision on May 15, 2014



# Oregon's Unmet Conditions

- New Development – “reduce average annual sediment loads by 80%”—post-construction
- On-site Sewage Disposal Systems – “Inspect OSDS at a frequency adequate to ascertain whether OSDS are failing”
- Additional MMs for Forestry
  - Increase protections for medium, small & non-fish-bearing “Type N” streams
  - Increase protections for landslide prone areas
  - Address impacts from forestry roads, esp. legacy roads
  - Ensure adequate stream buffers for application of certain chemicals, esp. aerial pesticide spraying on steep slopes





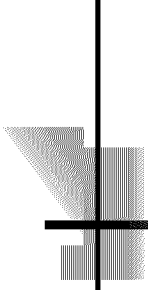
# NOAA/EPA's Pesticide Issue

- In 1998, NOAA/EPA placed a condition on Oregon's CNPCP that they needed to provide adequate buffers for aerial application of herbicides for non-fish-bearing streams
- Oregon follows on State's Pesticide Control Law, BMPs set by Oregon Department of Agriculture and EPA labeling requirements under FIFRA
- NMFS (part of NOAA) has issued several BiOps saying EPA needs to change pesticide labels to provide greater protection of salmon.
- EPA is working with NMFS on suitable solution

# Agriculture Concerns




- In 2004 NOAA/EPA issued tentative approval of State's agriculture programs with strong recommendation that the State Program needs to take a holistic pollution prevention approach and needs to be proactive in implementing its programs; NOAA/EPA decision weighed heavily on the success of the Ag Water Quality Management Program
- NOAA/EPA have received comments regarding OR's programs for meeting the Ag MMs. Issues include:
  - Enforcement is limited and largely complaint driven
  - AGWQMA plan rules are too general don't require specific management measures
    - AWQMA plans focus on impaired areas but not preventing degradation of areas with higher water quality and aquatic habitat ~~when the focus should be on protection and restoration~~
  - ~~There may~~ No clear, formalized process to track implementation and effectiveness
  - AWQMA plans do not address legacy issues
- NMFS recent Coho listings and draft recovery plans identified that insufficient riparian buffers around agricultural activities contribute to salmon decline
- EPA-NOAA are inviting public comment on OR's Ag program.



# State Actions taken to address the Remaining Issues


- OSDS –
  - Working with Oregon Realtors Association to develop voluntary inspection program
    - Standardized inspection report form
    - Outreach and education
    - Voluntary inspection reporting (tracking system)

# State Actions taken to address the Remaining Issues



- New Development

# State Actions taken to address the Remaining Issues



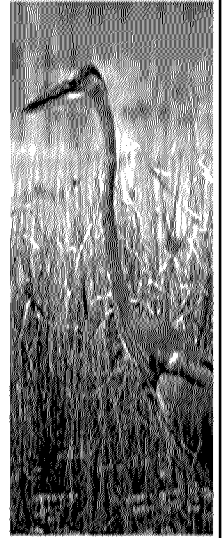
- Forestry



# Actions following Notice of Intent to Disapprove

- NOAA/EPA will carefully consider comments received and additional information from the State
- Develop a “Response to Comments” document
- NOAA/EPA intend to make a final decision regarding the disapproval of OR program by 5/15/14

# CZARA's "Penalty Provision"



- NOAA withholds portion of CZMA funding that supports implementation of the state's coastal management program
- EPA will also have to withhold a portion of Section 319 funding under the CWA that supports the implementation of the state's nonpoint source program
- Withheld funds could range from \$900,000 to \$1.2 million depending on appropriations level



# CZARA – Moving Forward

- Preventing/reducing NPS pollution is critical to all of us. NPS pollution is the most significant remaining water quality issue in Oregon
- NOAA/EPA recognize the complexities and challenges Oregon faces in developing a fully approvable Coastal Nonpoint Program
- We are committed to working in partnership with Oregon to help meet this challenge and to address the remaining issues.
- We have regular calls/meetings with the state and continue to work on the remaining issues